

NOT INCLUDED
IN BOUND VOLUMES

Cleveland, Ohio

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

COMMUNICATIONS WORKERS OF
AMERICA AND COMMUNICATIONS WORKERS
OF AMERICA, LOCAL 4309 (AT&T
TELEHOLDINGS, INC. d/b/a AT&T MIDWEST
AND THE OHIO BELL TELEPHONE COMPANY)

and

Case 8-CB-10487

SANDA ILIAS

**ORDER REMANDING PROCEEDING TO
ADMINISTRATIVE LAW JUDGE¹**

On January 9, 2009, Administrative Law Judge Wallace H. Nations issued his decision in this proceeding, finding the Unions' requirement that *Beck*² objectors renew their objection annually to be arbitrary under the duty of fair representation and therefore unlawful. Thereafter, briefs were filed by the Respondent, the General Counsel, and the Charging Party.

On August 27, 2010, the Board issued its decision in *Machinists Local Lodge 2777 (L-3 Communications)*, 355 NLRB No. 174 (2010), in which the Board announced the standard

¹Chairman Pearce is recused and has taken no part in the consideration of this case.

²*Communication Workers of America v. Beck*, 487 U.S. 735 (1988).

by which it will evaluate the propriety of a union's annual *Beck* renewal requirement under the arbitrary prong of the duty of fair representation. In *L-3 Communications* itself, the Board ultimately found that the unions had failed to present a legitimate justification for their annual renewal requirement.

Subsequently, in *Auto Workers Local 376 (Colt's Mfg. Co.)*, 356 NLRB No. 164 (2011), the Board applied the standard announced in *L-3 Communications* to find a union's annual *Beck* renewal requirement not to be unlawful, because the unions there had taken steps to minimize the burden the requirement imposed on objectors.

The Board has decided to remand this case to an administrative law judge for further consideration in light of *L-3 Communications* and *Colt's Mfg. Co.*, including permitting the parties to file supplemental briefs to the judge.

IT IS ORDERED, because Judge Wallace H. Nations has retired, that this proceeding is remanded to Chief Administrative Law Judge Robert A. Giannasi, to designate another administrative law judge in accordance with Section 102.36 of the Board's Rules and Regulations.

IT IS FURTHER ORDERED that the administrative law judge designated shall prepare a supplemental decision

setting forth findings of fact, conclusions of law, and a recommended Order. Copies of the supplemental decision shall be served on all parties, after which the provisions of Section 102.46 of the Board's Rules and Regulations shall be applicable.

Dated, Washington, D.C. October 26, 2011.

By direction of the Board:

Lester A. Heltzer
Executive Secretary